

## SB0248S02 compared with SB0248S01

~~{deleted text}~~ shows text that was in SB0248S01 but was deleted in SB0248S02.

Inserted text shows text that was not in SB0248S01 but was inserted into SB0248S02.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

~~{Senator Ralph Okerlund}~~Representative Michael K. McKell proposes the following substitute bill:

### THROUGHPUT INFRASTRUCTURE AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ralph Okerlund**

House Sponsor: ~~{~~Michael K. McKell

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#### LONG TITLE

##### General Description:

This bill addresses throughput infrastructure amendments.

##### Highlighted Provisions:

This bill:

- ~~{~~ → defines terms;
- ~~}~~   ▶ addresses ~~{the Throughput Infrastructure Fund}~~ definitions;
- ▶ ~~{provides}~~ imposes requirements for the first throughput infrastructure project ~~{approved by the Office of Energy Development;~~
- requires an escrow account established under an escrow agreement;
- provides for grant repayments;
- addresses throughput infrastructure projects from repayment of the first throughput

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~~infrastructure project~~; considered by the Permanent Community Impact Fund Board;

and

- makes technical ~~{and conforming}~~ changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**35A-8-302**, as last amended by Laws of Utah 2017, Chapter 262

~~{35A-8-308}~~ **35A-8-309**, as last amended by Laws of Utah 2017, Chapters 181 and 421

~~{63M-4-401, as last amended by Laws of Utah 2017, Chapters 227 and 470}~~

~~ENACTS:~~

~~———— **35A-8-309.5**, Utah Code Annotated 1953~~

~~RENUMBERS AND AMENDS:~~

~~———— **35A-8-310**, (Renumbered from 35A-8-309, as last amended by Laws of Utah 2017, Chapters 181 and 421)~~

~~}~~

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **35A-8-302** is amended to read:

#### **35A-8-302. Definitions.**

As used in this part:

(1) "Bonus payments" means that portion of the bonus payments received by the United States government under the Leasing Act paid to the state under Section 35 of the Leasing Act, 30 U.S.C. Sec. 191, together with any interest that had accrued on those payments.

(2) "Impact board" means the Permanent Community Impact Fund Board created under Section 35A-8-304.

(3) "Impact fund" means the Permanent Community Impact Fund established by this chapter.

(4) "Interlocal agency" means a legal or administrative entity created by a subdivision

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or combination of subdivisions under the authority of Title 11, Chapter 13, Interlocal Cooperation Act.

(5) "Intermodal facility" means a hub or other facility for trade combining any combination of rail, trucking, air cargo, and other transportation services.

~~[(5)]~~ (6) "Leasing Act" means the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 181 et seq.

~~{ ——— (6) "Office of Energy Development" means the Office of Energy Development created in Section 63M-4-401.~~

~~†~~ ~~[(6)]~~ (7) "Qualifying sales and use tax distribution reduction" means that, for the calendar year beginning on January 1, 2008, the total sales and use tax distributions a city received under Section 59-12-205 were reduced by at least 15% from the total sales and use tax distributions the city received under Section 59-12-205 for the calendar year beginning on January 1, 2007.

~~[(7)]~~ (8) "Subdivision" means a county, city, town, county service area, special service district, special improvement district, water conservancy district, water improvement district, sewer improvement district, housing authority, building authority, school district, or public postsecondary institution organized under the laws of this state.

~~[(8)]~~ (9) (a) "Throughput infrastructure project" means the following facilities, whether located within, partially within, or outside of the state:

- (i) a bulk commodities ocean terminal;
- (ii) a pipeline for the transportation of liquid or gaseous hydrocarbons;
- (iii) electric transmission lines and ancillary facilities;
- (iv) a shortline freight railroad and ancillary facilities;
- (v) a plant for producing hydrogen, including the liquification of hydrogen, for use as a fuel in zero emission motor vehicles; ~~[(or)]~~

(vi) a plant for the production of zero emission hydrogen fueled trucks~~[(;)]~~;

(vii) an inland port; or

(viii) an intermodal facility.

(b) "Throughput infrastructure project" includes:

- (i) an ownership interest or a joint or undivided ownership interest in a facility;
- (ii) a membership interest in the owner of a facility; or

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(iii) a contractual right, whether secured or unsecured, to use all or a portion of the throughput, transportation, or transmission capacity of a facility.

Section 2. Section ~~{35A-8-308}~~ 35A-8-309 is amended to read:

### ~~{35A-8-308. Throughput Infrastructure Fund.}~~

~~—— (1) There is created an enterprise fund known as the "Throughput Infrastructure Fund."~~

~~—— (2) The [fund] Throughput Infrastructure Fund consists of money generated from the following revenue sources:~~

~~—— (a) [all] the amounts transferred to the [fund] Throughput Infrastructure Fund under Subsection 59-12-103(12);~~

~~—— (b) [any] voluntary contributions received;~~

~~—— (c) appropriations made to the [fund] Throughput Infrastructure Fund by the Legislature; and~~

~~—— (d) [all] the amounts received from the repayment of loans [made by the impact board under Section 35A-8-309] or repayable grants under Sections 35A-8-309.5 and 35A-8-310.~~

~~—— (3) The state treasurer shall:~~

~~—— (a) invest the money in the [fund] Throughput Infrastructure Fund, pending the applications for grants or loans under Sections 35A-8-309.5 and 35A-8-310, by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; [and]~~

~~—— (b) deposit [all] the interest or other earnings derived from those investments into the [fund.] Throughput Infrastructure Fund; and~~

~~—— (c) contract for trust and escrow services to be used as provided under Section 35A-8-309.5;~~

~~—— Section 3. Section 35A-8-309.5 is enacted to read:~~

### ~~35A-8-309.5. Funding for first throughput infrastructure project -- Administered by Office of Energy Development -- Terms.~~

~~—— (1) Upon receipt of an application from an interlocal agency created for the sole purpose of undertaking a throughput infrastructure project that is a bulk commodities ocean terminal, the Office of Energy Development shall grant all of the money in the Throughput Infrastructure Fund, created in Section 35A-8-308, to the interlocal agency if the application demonstrates that the interlocal agency:~~

~~—— (a) has taken steps to plan for a bulk commodities ocean terminal; and~~

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- ~~—— (b) can comply with Subsections (2) and (3);~~
- ~~—— (2) (a) The interlocal agency described in Subsection (1) shall enter into an escrow agreement with the Office of Energy Development, and the trust and escrow services provider contracted for under Subsection 35A-8-308(3)(c);~~
- ~~—— (b) The interlocal agency shall deposit the grant directly into the established escrow account and pending its use by the interlocal agency the grant shall be invested as provided in Title 51, Chapter 7, State Money Management Act;~~
- ~~—— (3) The escrow agreement described in Subsection (2) shall:~~
  - ~~—— (a) permit the interlocal agency to use up to 2% of the amount on deposit in the escrow account to pay or reimburse the interlocal agency's costs incurred before the acquisition of the throughput infrastructure project, including:~~
    - ~~—— (i) organizational costs;~~
    - ~~—— (ii) costs and expenses incurred in the interlocal agency's investigation, review, and negotiation of the interlocal agency's acquisition of the throughput infrastructure project; and~~
    - ~~—— (iii) costs of the escrow agreement;~~
  - ~~—— (b) provide that the escrow agent shall release the amount remaining on deposit in the escrow account after the use described in Subsection (3)(a) only to pay the cost of the throughput infrastructure project, including:~~
    - ~~—— (i) amounts for working capital; and~~
    - ~~—— (ii) reserves and transaction costs upon the delivery of a bond, note, or other instrument issued by the interlocal agency that:~~
      - ~~—— (A) provides for the repayment of the grant in annual installments beginning not less than three years after the throughput infrastructure project commences full commercial operation;~~
      - ~~—— (B) is secured solely by a pledge by the interlocal agency of the net revenues received from the throughput infrastructure project; and~~
      - ~~—— (iii) is otherwise a nonrecourse obligation of the interlocal agency and the members of the interlocal agency; and~~
  - ~~—— (c) contains other terms that are acceptable to the parties to the escrow agreement.~~
- ~~—— (4) A grant repayment made by the interlocal agency under this section shall be deposited into the Throughput Infrastructure Fund for use as provided in Section 35A-8-310.~~

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~~Section 4. Section 35A-8-310, which is renumbered from Section 35A-8-309 is renumbered and amended to read:~~

~~[35A-8-309].~~ 35A-8-310. Throughput 35A-8-309. Throughput  
**Infrastructure Fund administered by impact board -- Uses -- Review by board -- Annual report.**

(1) The impact board shall:

~~{f}~~(a) make grants and loans from the Throughput Infrastructure Fund created in Section 35A-8-308 for a throughput infrastructure project; ~~{f}~~

~~{f}~~(b) use money transferred ~~{to the Throughput Infrastructure Fund in accordance with Subsection 59-12-103(12)}~~

~~(a) use the repayments deposited into~~ to the Throughput Infrastructure Fund ~~{under}~~ in accordance with Subsection ~~{35A-8-309.5}~~ 59-12-103 ~~(4)~~ 12 to provide a loan or grant to finance the cost of acquisition or construction of a throughput infrastructure project to one or more local political subdivisions, including a Utah interlocal [entity] agency created under Title 11, Chapter 13, Interlocal Cooperation Act;

~~{f}~~(c) ~~{f}~~ (b) administer the Throughput Infrastructure Fund in a manner that will keep a portion of the fund revolving;

~~{f}~~(d) ~~{f}~~ (c) determine provisions for repayment of loans;

~~{f}~~(e) ~~{f}~~ (d) establish criteria for awarding loans and grants; and

~~{f}~~(f) ~~{f}~~ (e) establish criteria for determining eligibility for assistance under this section.

(2) The cost of acquisition or construction of a throughput infrastructure project includes amounts for working capital, reserves, transaction costs, and other amounts determined by the impact board to be allocable to a throughput infrastructure project.

(3) The impact board may restructure or forgive all or part of a local political subdivision's or interlocal [entity's] agency's obligation to repay loans for extenuating circumstances.

(4) ~~[In order to]~~ To receive assistance under this section, a local political subdivision or an interlocal [entity] agency shall submit a formal application containing the information that the impact board requires.

(5) (a) The impact board shall:

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(i) review the proposed uses of the Throughput Infrastructure Fund for a loan or grant before approving the loan or grant and may condition its approval on whatever assurances the impact board considers necessary to ensure that proceeds of the loan or grant will be used in accordance with this section;

(ii) ensure that each loan specifies terms for interest deferments, accruals, and scheduled principal repayment; and

(iii) ensure that repayment terms are evidenced by bonds, notes, or other obligations of the appropriate local political subdivision or interlocal ~~[entity]~~ agency issued to the impact board and payable from the net revenues of a throughput infrastructure project.

(b) An instrument described in Subsection (5)(a)(iii) may be:

(i) non-recourse to the local political subdivision or interlocal ~~[entity]~~ agency; and

(ii) limited to a pledge of the net revenues from a throughput infrastructure project.

(6) (a) Subject to the restriction in Subsection (6)(b), the impact board shall allocate from the Throughput Infrastructure Fund to the board those amounts that are appropriated by the Legislature for the administration of the Throughput Infrastructure Fund.

(b) The amount described in Subsection (6)(a) may not exceed 2% of the annual receipts to the fund.

(7) The board shall include in the annual written report described in Section 35A-1-109:

(a) the number and type of loans and grants made under this section; and

(b) a list of local political subdivisions or interlocal ~~[entities]~~ agencies that received assistance under this section.

~~{Section 5. Section 63M-4-401 is amended to read:~~

~~———— 63M-4-401. Office of Energy Development -- Creation -- Director -- Purpose -- Rulemaking regarding confidential information -- Fees.~~

~~———— (1) There is created an Office of Energy Development.~~

~~———— (2) (a) The governor's energy advisor shall serve as the director of the office or appoint a director of the office.~~

~~———— (b) The director:~~

~~———— (i) shall, if the governor's energy advisor appoints a director under Subsection (2)(a), report to the governor's energy advisor; and~~

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- ~~—— (ii) may appoint staff as funding within existing budgets allows.~~
- ~~—— (c) The office may consolidate energy staff and functions existing in the state energy program.~~
- ~~—— (3) The purposes of the office are to:~~
  - ~~—— (a) serve as the primary resource for advancing energy and mineral development in the state;~~
  - ~~—— (b) implement:~~
    - ~~—— (i) the state energy policy under Section 63M-4-301; and~~
    - ~~—— (ii) the governor's energy and mineral development goals and objectives;~~
    - ~~—— (c) advance energy education, outreach, and research, including the creation of elementary, higher education, and technical college energy education programs;~~
    - ~~—— (d) promote energy and mineral development workforce initiatives; and~~
    - ~~—— (e) support collaborative research initiatives targeted at Utah-specific energy and mineral development.~~
  - ~~—— (4) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the office may:~~
    - ~~—— (a) seek federal grants or loans;~~
    - ~~—— (b) seek to participate in federal programs; and~~
    - ~~—— (c) in accordance with applicable federal program guidelines, administer federally funded state energy programs.~~
  - ~~—— (5) The office shall perform the duties required by Sections 11-42a-106, 35A-8-309.5, 59-7-614.7, 59-10-1029, Part 5, Alternative Energy Development Tax Credit Act, and Part 6, High Cost;~~
- (8) (a) The first throughput infrastructure project considered by the impact board shall be:
  - (i) a bulk commodities ocean terminal project;
  - (ii) an inland port; or
  - (iii) an intermodal facility.
- (b) Upon receipt of an application from an interlocal agency created for the purpose of undertaking a throughput infrastructure project that is described in Subsection (8)(a), the impact board shall:
  - (i) grant up to 2% of the money in the Throughput Infrastructure ~~{Development Tax~~



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### Credit Act:

~~—— (6) (a) For purposes of administering this section, the office may make rules, by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to maintain as confidential, and not as a public record, information that the office receives from any source:~~

~~—— (b) The office shall maintain information the office receives from any source at the level of confidentiality assigned by the source:~~

~~—— (7) The office may charge application, filing, and processing fees in amounts determined by the office in accordance with Section 63J-1-504 as dedicated credits for performing office duties described in this part:~~

~~1 Fund to the interlocal agency to pay or reimburse costs incurred by the interlocal agency preliminary to its acquisition of the throughput infrastructure project; and~~

~~(ii) fund the interlocal agency's application if the application meets all criteria established by the impact board.~~